



The City of New York
Law Department
100 CHURCH STREET
NEW YORK, NY 10007

ZACHARY W. CARTER
Corporation Counsel

SHIRLEY W. BI
Assistant Corporation Counsel
Labor & Employment Law Division
Phone: (212) 356-2464
Fax: (212) 356-2439
Email: sbi@law.nyc.gov

August 17, 2018

BY ECF

Honorable Robert M. Levy
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Thomas v. New York City Dep't of Educ., et al.,
18 Civ. 2259 (WFK)(RML)
Our No. 2018-029029

Dear Judge Levy:

I am an Assistant Corporation Counsel in the office of Zachary W. Carter, Corporation Counsel of the City of New York, attorney for defendants in the above-referenced action. Defendants write on behalf of all parties and respectfully submit the instant status letter in accordance with the Court's order, dated July 25, 2018.

A. Summary of the Case

Plaintiff, a guidance counselor employed by the DOE, asserts claims of age discrimination and a hostile work environment, in violation of the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621, *et seq.* ("ADEA"); the New York State Human Rights Law, New York Executive Law §§ 296, *et seq.* ("SHRL"); and the New York City Human Rights Law, New York City Administrative Code §§ 8-107 *et seq.* ("CHRL"). Defendants believe that they have a fully dispositive motion to dismiss the complaint. We also continue to investigate the allegations of the Complaint as well as gathering relevant documents, and interviewing witnesses, in case the motion is somehow unsuccessful.

HONORABLE ROBERT M. LEVY

United States Magistrate Judge

Thomas v. New York City Dep't of Educ., et al.,

18 Civ. 2259 (WFK)(RML)

August 17, 2018

Page 2

On August 15, 2018, a pre-motion conference was held before Judge Kuntz, during which the Court scheduled defendants' motion to dismiss as follows:

- Defendants shall serve their motion to dismiss by September 14, 2018;
- Plaintiff's opposition shall be served by November 16, 2018; and
- Defendants' reply shall be served by December 2, 2018.

B. Settlement And Discovery

The parties have engaged in preliminary settlement discussions prior to the August 15th pre-motion conference, but to no avail. After the pre-motion conference, counsels for both parties again explored settlement options with their respective clients concerning both monetary and equitable demands. At this time, the parties are unable to reach an amicable resolution to the instant case.

Finally, at the August 15th pre-motion conference, Judge Kuntz denied defendants' application to limit the scope of discovery based on the proposed motion to dismiss and also because of the concurrent State Court proceeding in which plaintiff seeks leave to file a late Notice of Claim. The parties are aware of their discovery obligations pursuant to Rule 26 and anticipate exchanging Initial Disclosures in the upcoming weeks.

Thank you for your consideration of this matter.

Respectfully submitted,

/S/

Shirley Bi

Assistant Corporation Counsel

cc: **GLASS KRAKOWER LLP.**
Attorneys for Plaintiff
Att: Jordan Harlow
(By Email)